



David B. Cohen
Mayor

CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

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CONSERVATION COMMISSION

MEETING MINUTES

February 28, 2008

Beginning at 7:30 p.m.

Cafeteria, City Hall

MEMBERS PRESENT: R. Freed, V-Chair, N. Richardson, R. Matthews, S. Lunin, Dan Green

MEMBERS ABSENT: I. Wallach, D. Dickson, Associate: J. Hepburn

MEMBERS OF THE PUBLIC: See attached sign-in sheet

Note: J. Freed announced her resignation from the Commission, immediately following this meeting.

Zach Fagen – Eagle Scout project at Flowed Meadow

Report: Zach came to me last fall interested in doing a project on the trail to Flowed Meadow from Staniford Lane (where he lives). He proposed pulling garlic mustard at the head of the trail (in an upland area adjacent to the street) and putting down wood chips in the trailhead area. He proposed cutting out the section of a tree that had fallen across the path and trimming back vegetation that was growing into the path. Only 3 activities would be conducted in the wetland area: trimming back the side vegetation to maintain the path, replacing a sign that was damaged, and removing a *Hosta* immediately adjacent to the path that someone had planted adjacent to the wetland area. The work has been completed and Zach is here to report on it.

Meeting: Zach Fagen attended, with his parents, and delivered a written and verbal summary of his project. Zach mounted the map he made onto display board with lots of photos of the project, and agreed to loan this to the Planning Department for temporary display.

40 Olde Field Rd – NOI for addition to single family house, widening of driveway, and related site grading in the 200 ft riverfront area and the 100 ft buffer to bank of Paul Brook

Report: At last meeting, Commission asked for applicant to bring back calculations of amount of new development and re-development in riverfront area to guide evaluation of mitigation plantings. In the meantime, a more intensive look at previous filings and GIS and field information confirm applicant's contention that Paul Brook is intermittent (NOI was submitted showing riverfront because Everett had information in their files indicating the stream was perennial). Because resource area is 100 ft buffer to bank instead of riverfront area, -- all proposed work is out of flood zone--requirements of 310 CMR less strict and no mitigation is required (applicant submitted plan showing 5 ft planting strip for mitigation based on Planner's advice re riverfront). If CC so approves, applicant could submit new plan w/no planting strip, plan could be hand annotated and dated, and/or a special condition can be added to address mitigation strip shown on plan.

Meeting: Michael Kosmo of Everett Brooks presented and explained that now the city and Everett Brooks are in agreement that the stream is intermittent at this location. The Commission inquired whether the applicant was still willing to offer mitigation for the large increase in impervious surface in the buffer to bank. R. Freed asked the owner if he were willing to offer mitigation. The owner responded by asking her whether the

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Commission is requiring mitigation, and stated that he is not willing to offer mitigation. R. Freed informed the owner that the Commission does have the power to require mitigation.

Motion by R. Matthews to issue an Order of Conditions with the standard conditions, only. S. Lunin seconded the motion. Vote: All in favor. Motion passed. A notation will be added to the Order to the effect that the mitigation is not required.

Note: R. Freed requested that the agenda show a slightly more detailed description of each site to inform the Commission of pertinent facts.

32 Williams Street – NOI for demolition of existing house and construction of a two-family house in the 100 ft buffer zone to bordering vegetated wetland and in the 200 riverfront to the Charles- continued from Nov. 15

Report: Last meeting applicant asked to continue with no new information.

Meeting: Staff reported that the applicant has asked to continue with no new information.

2345 Commonwealth Av – Marriott Hotel – Request for Extension

Report: Site walk with Ecotech and Joe Porter (VTP associates) to observe work completed. All plantings appear to be in place and undamaged, with exception of 1 tree possibly damaged by lightening and a rhododendron that must be replaced. I see no reason for CC not to grant 1 yr. Extension.

Meeting: Joe Porter of VTP represented the Marriott's request for an extension. He said the rhododendron was removed during construction and never replaced as required. The Order called for a review of the tree trimming by Marc Walsh, Newton's tree specialist. The extension would provide more time to schedule a visit by Marc and consult him regarding the tree that appears to have been struck by lightening. The rhododendron can be replaced in the spring when the weather warms. The Commission asked whether a one-year extension is sufficient. Mr. Porter said it was more than enough time.

Motion by R. Matthews to issue a 1-yr extension to the Order of Conditions to complete requirements as noted. Seconded by D. Green. Vote: All in favor. Motion passed.

Quinobequin Rd – NOI for Keyspan for natural gas line under Quinobequin Rd. between Irwin Rd and Annawam Rd. in the 200 ft riverfront to the Charles, in bordering land subject to flooding and in buffer zone to bordering vegetated wetland.

Report: Bordering vegetated wetland is possibly less than 8 ft from the work and allows very little margin for erosion and sediment control on the north side of the road. Work of installing gas line is proposed to stay within the paved area of the roadway.

Meeting: Brett Manson of Oxbow Assoc. presented for Keyspan. The revised plan shows all work for the proposed 860 ft of subsurface gas conduit within the road layout and on existing pavement. Quinobequin Road is owned by MA Department of Conservation and Recreation (DCR). Following a site visit with Anne and Frank Nichols of Engineering, Oxbow was asked to address concerns about erosion and sediment control proposed. The revised plan, dated February 19, 2008, addresses these concerns by proposing that a) only silt fence be installed and entrenched just at the edge of the pavement on the north side of the road, b) silt fence be installed the entire length of the work on the south side of the road, and c) all tailings be removed from the site at the end of each day's work. These measures will help to prevent or reduce damage to the roots of woody vegetation on the north side of the road, and prevent any stockpiling of soil in the flood plain. The

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machines for trenching or excavating will be allowed only on the asphalt. R. Matthews asked how large the excavation would be. Mr. Manson replied that the pipe is pretty small and the excavation might be as little as 18 in deep. D. Green asked whether work would be started after winter, so that snow plows would not be traversing the road (and destroying the silt fence). Mr. Manson indicated that that would be an acceptable condition. NOTE: Green cards (receipts for some certified mailings) were retained by the applicant, who will xerox them and send them to Anne.

Motion by D. Green to issue an Order of Conditions with the indicated special conditions. N. Richardson seconded the motion. Vote: All in favor. Motion passed.

32 Olde Field Road - NOI for a house addition outside of flood zone and buffer zone

Report: Proposed house addition is out of resource areas and buffer zone but dry well construction will occur in buffer to top of bank for Paul Brook, an intermittent stream. The slope is fairly gradual and silt fence, properly entrenched should be sufficient for erosion & sediment control, as long as no fill or excavated material (or other materials) is stockpiled in back of house.

Meeting: Owner Michael Gerard presented, with Mr. Sabino Hernandez, (I.S. Design Services) also attending. Mr. Gerard brought the green cards. He explained the addition he proposed to have built is out of resource areas, including the buffer zone, but the dry well required by engineering is in the buffer zone. Because MA Department of Environmental Protection (DEP) has not issued a file number for this Notice, the Commission cannot close the hearing and issue the Order. R. Freed said the owner can begin work on the addition, but not work on the dry well, until the Order is Issued (and recorded). R. Freed advised the owner to re-submit the package to DEP because she thinks it is lost. She told the owner that he did not need to come back for the Commission to issue the Order next month, as long as a file number has been issued. N. Richards asked whether the City of Newton has approved the dry well. Mr. Gerard replied that they had asked for additional information. Anne noted that engineering must be satisfied on this prior to start of work. Owner agreed to continue until the March 27th meeting.

70 Carlton Road – RDA to determine if proposed work is out of resource area

Report: Watershed/flood-plain ordinance #22-22 sets elevation of Waban kettle pond at 122. Plan(s) submitted for landscaping work beyond that elevation (2-11-08 revisions plan from Everett Brooks) indicates limit of work at elevation 128. However, second plan submitted by landscaper (also dated 2-11-08) labels area between elevation 128 and 122 “leave undisturbed other than removal of invasives.” I am concerned that work so close to the ILSF will alter the resource area, particularly because of the slope of the land. The large trees (oak & maple) shade the water and the edge of the kettle pond, and their roots hold the soil. There is no identification of the invasives to be removed, how they will be removed, nor how the applicant plans to protect the nearby resource area in the process.

Meeting: Errol Yudelman, owner, appeared with landscaper Pamela Hart. The area of the kettle pond was located by Oxbow Associates. A supplemental “Notes” page was submitted by Ms. Hart on Feb. 20, noting that only “isolated herbaceous seedlings of purple loosestrife, garlic mustard, and black swallowwort would be removed in the area between elevation 128 and 122. She said they want to remove Norway maples and plant a mix of shrubs and evergreens for shelter for wildlife above this elevation. The Commission has recently heard two filings for properties touching the kettle pond, in which the Commission had declined to confirm the resource area. Oxbow Assoc. representative Scott Smyers, in a telephone conversation, had noted the kettle pond is listed in the City Watershed/Floodplain ordinance (#22-22), with a volume calculated as that contained



at and below the 122 elevation line. R. Freed said the ordinance does not bind the Commission to a determination, since the Commission is enforcing a state law, and she asked the applicant whether he really needed the pond delineated. Mr. Yudelman indicated he did not. Because the pond is isolated land subject to flooding the Commission does not have jurisdiction over any area outside the pond. As long as the owner proposes no work below elevation 128 they should be out of the resource area. **Motion by D. Green to issue a negative determination #4. R. Matthews seconded the motion. Vote: All in favor. Motion passed.**

1676 Commonwealth Ave –Request for Administrative Change

Report: House is essentially completed and drainage system installed. Engineer reports there is a perched water table on site, such that storm water storage under driveway is overflowing (water was being drained to street). Owner requests to tie in overflow to City drain on far side of Fuller St. Other changes have been made (list attached to packet).

Meeting: Joe Porter, of VTP Associates, reports on his request for minor modifications. He says engineering has no issues with the tie-in to city drainage. He reports on additional changes, including 2 sets of steps added and a tree removed from the site. R. Freed noted that the Commission could approve the drainage change without approving any of the other changes that are within jurisdictional area, and suggested the owner should be thinking of mitigation when a Certificate of Compliance is sought. **Motion by D. Green to approve the change to the drainage only. Second by R. Matthews. Vote: All in favor. Motion passed.**

Violations

1203&1211 Washington – Donato

Report: Site has open tracking number for a previous OHM release for this property (neither the Commission nor DEP was informed of this at the time the NOI was filed). Immediate Response Action Plan prepared by Mr. Donato's LSP has been reviewed (2 pp in packet). The initial conclusion is that trace petroleum contaminant was in fill placed onto the site in the past (and has nothing to do with prior OHM release). But, because evidence of "urban fill" on site, Environmental Engineer Maria Rose (in packet) recommends "reconsidering the installation of any stormwater recharge pipes or units anywhere on this property" (see memo dated Dec. 20, 2007 in packet). Letter was sent to Mr. Donato, as follow-up to EO, requesting he and his LSP attend the meeting to address this issue.

Meeting: Joe Porter of VTP represented and said they are considering a Vortech unit to treat surface flow from the pavement, with the outfall emptying through a pipe to the stream. R. Freed noted it is important to correctly size the system for the amount of stormwater that will be treated. The Stormceptor would mainly remove total suspended solids (TSS). This does not address mitigation for oil and silt in the stream and likely damage to invertebrate habitat. The City and Mr. Donato have to work together on this, since, for example, if rocks are added to the stream bottom, engineering must still be able to maintain flow and remove obstacles. Discussion about stream mitigation followed. N. Richardson suggested the owner should hire a wetland consultant. R. Freed inquired whether Mr. Donato might be willing to employ Ecotec (or other consultant) to help propose some mitigation. Mr. Porter noted the outflow pipe would probably require some riprap to prevent stream scour, and that the rock placed as riprap might provide an opportunity for incorporating rock of the proper size to provide spaces for invertebrate habitat. Mr. Porter said he would come back in a month with a new design for drainage and a request to modify the NOI, accordingly.



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R. Freed left approximately 10:00 pm.

15 Harwich Rd - the Law Dept. recorded the EO, and engineering issued a memo summarizing the remaining/outstanding permits and work needed for them to sign off on a Certificate of Occupancy. We have unofficial word that the bank foreclosed on the loan approximately 2-11-08. Hopefully, the bank will want to get all the liens off the property and address the engineering issues.

160 Pine St – Condo manager came in with conceptual plan in December for the wall, and engineering sent them a letter clarifying the need for an engineered plan and a filing with Conservation. It is now 6 months since we first met with them to try to get access to the sewer pipe and get them to file for the (un-permitted) wall next to Brunnen Brook.

Meeting: Staff reported that Ted Jerdee, DPW, and she had visited the end of Gambier Street, which abuts the Gazebo Condo project, because DPW needed to find the city's manhole to address a sewer blockage. Brunnen Brook, an intermittent stream makes a right angle turn here, and the retaining wall is located at the turn. When they could not locate the manhole, the Engineering Department consulted old site plans for the condo project, surveyed the area, and reported that the retaining wall was within the city's storm sewer easement and had apparently been constructed over the manhole. Staff sent a letter asking to meet with the condo association regarding this matter. Michael Connolly, manager of the condo association met with city representatives from Engineering, Planning, and DPW and agreed to address the issue. A wall design was submitted late last year, and engineering informed the condo association they needed an engineered site plan, and that they would have to file with Conservation prior to any work being performed. Because this was deemed "urgent" by DPW, they should take the lead on the project. Ward Alderman Sangiolo is in the process of helping to set up a meeting at the site to seek solutions to the problem. Staff will report back after the meeting.

93 Andrew St – coming into compliance

394 Boylston St. – mitigation under way

68 Brierfield Rd – no action needed at this time

Request for Administrative Change

1676 Commonwealth Ave – requesting minor modification to drainage (COVERED ABOVE)

Certificates of Compliance

107 Pine Street – did not get signed last time – signed this time

95 Albemarle Rd- All work is completed, and Engineering has signed off on the project. **Motion by D. Green to grant Certificate. N. Richardson seconded. Vote: All in favor. Motion passed.**

212 Kenrick – Newton Community Golf Course – Work is completed. As-built not to scale and reported size of transformer pad needed to be corrected. A pdf plan was submitted to correct for above, but this plan is not stamped, and engineer says he will not stamp it because his staff did not do the measurements. Staff reported to the Commission that an engineer-stamped plan was not required with the NOI at the time of filing. The

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Commission wants an engineer (or surveyor) –stamped as-built plan showing all the work correctly. They also suggested contacting Alan Green to see what he recalls about the original permit for the work.

Announcements & General Business:

Norumbega Fence – Landscapers at the Marriott have from time to time left lawn clippings on the Norumbega side of the chain link fence, and some recent clippings were observed last fall by staff. This winter, the snow plow at the Marriott was used to pile snow against the fence, which was collapsing under its weight. When notified, the manager seemed very cooperative and has offered to replace part of the fence, but would like to substitute a more-attractive split rail fence, or even a lower chain link fence. Staff asked whether the Commission had any directions regarding the fence, or is comfortable with Anne making the final decision. The Commission indicated Anne should make the decision.

MACC Spring Conference – Anne is going and will report back regarding the new storm water regulations.

January 24, 2008 Meeting Minutes for approval – Motion by R. Matthews to approve January meeting minutes. Motion seconded by D. Green. Vote: All in favor. Motion passed.

Non-criminal ticketing - report
Outstanding issues – discussion

Respectfully submitted,

Anne Phelps, Sr. Environmental Planner

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